

MDR Tracking Number: M5-04-0238-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution - General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on September 19, 2003

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity for hot an/ cold packs, stimulation, massage, and subsequent office visits. (Fee issues for dates of service 09-24-02, 10-01-02, 10-03-02, 10-10-02 and 10-24-02 were withdrawn by the requestor.) Therefore, upon receipt of this Order and in accordance with § 133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this Order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved, hot an/ cold packs, stimulation, massage, and subsequent office visits were found to be medically necessary. The respondent raised no other reasons for denying reimbursement.

This Findings and Decision is hereby issued this 1<sup>st</sup> day of December 2003.

Georgina Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division  
GR/gr

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 09-24-02 through 12-05-02 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 1<sup>st</sup> day of December 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division  
RL/gr

November 18, 2003

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

MDR Tracking #: M5-04-0238-01  
IRO #: 5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor specialized in Occupational Medicine. The reviewer is on the TWCC Approved Doctor List (ADL). The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_ is a 38-year-old gentleman who works in maintenance at a neighborhood home owner's association. On \_\_\_, while lifting a trailer hookup to put on the back of a pickup truck, he injured his right forearm and elbow.

The patient began with soft tissue swelling to the right forearm. He applied ice and kept doing restricted duties for the remainder of the day and took Tylenol for some temporary relief.

On 5/13/02 while squeezing a shovel in order to make a pothole in the ground he felt pain to the right arm, so he sought evaluation and was seen by \_\_\_ who diagnosed lateral epicondylitis. He was placed in a splint, advised to not use the right arm at work, and placed on Naproxyn and Darvocet-N100. \_\_\_ was subsequently given an injection of Kenalog and xylocaine to the lateral epicondyle at the right elbow under sterile conditions. He was advised to continue use of the splint, continue taking the Naproxen and do light duty work. He was then placed on Ultram. He was given a second cortisone injection and had physical therapy ordered on the visit of 7/1/02.

He was also referred to \_\_\_ for evaluation. The notes mention that he was to start physical therapy, although he never did because his right arm was too painful. On 8/22/02 the therapy was re-ordered. He was then changed to Vioxx and an MRI scan was ordered.

On 12/16/02 he was deemed to be at MMI and a 0% whole person impairment was given and he was able to return to work.

### DISPUTED SERVICES

Under dispute is the medical necessity of exercises, hot/cold packs, stimulation, massage, supplies, materials, and subsequent visits.

### DECISION

The reviewer disagrees with the prior adverse determination.

### BASIS FOR THE DECISION

This patient's medical records document a diagnosis of lateral epicondylitis to the right elbow with right radial tunnel syndrome. The records show that therapy was started on 8/27/02, slightly under one month prior to the dates in question which start with 9/24/02.

The MRI scan of the right elbow was consistent with partial tearing of the common extensor mass. Furthermore, the medical records from both \_\_\_ and \_\_\_, as well as physical therapy, show that the therapy alleviated his complaints. Also, findings and range of motion of the right elbow, which was initially decreased, returned to normal.

The documentation shows that the services in question were medically reasonable and necessary for this injury. They helped to improve \_\_\_ injury to the point that he was able to reach MI, was given zero percent (0%) whole person impairment, and was able to return to work.

Therefore, based on the medical records available for review, the reviewer finds documentation for the medical necessity of the exercises, hot/cold packs, stimulation, massage, subsequent visits, and supply materials provided to this patient from 9/24/02 through 12/5/02.

\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_ has made no determinations regarding benefits available under the injured employee's policy

As an officer of \_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,